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Letter dated 1 February 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a self-explanatory statement issued today by the Ministry of Foreign Affairs of Eritrea entitled "Statement on Security Council resolution 1798 (2008)" (see annex).

I should be grateful if the present letter and its annex were circulated as a document of the Security Council.

(*Signed*) Tesfa Alem Seyoum
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Annex to the letter dated 1 February 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council

Statement on Security Council resolution 1798 (2008)

As it will be recalled, key tenets of the Algiers Peace Agreement are contained in Articles 4.2 and 4.15 which read as follows:

i) "The Parties agree that a neutral Boundary Commission composed of five members shall be established with a mandate to delimit and demarcate the colonial treaty border based on pertinent colonial treaties (1900, 1902 and 1908) and applicable international law. The Commission shall not have the power to make decisions *ex aequo et bono*". (Article 4.2.)

ii) "The Parties agree that the delimitation and demarcation determinations of the Commission shall be final and binding. Each party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other party". (Article 4.15)

In accordance with these explicit provisions and its overall mandate as stipulated in the Algiers Agreement, the Boundary Commission has fully accomplished its delimitation and demarcation determinations. Indeed, in its 26th report to the UNSC filed in January this year, the EEBC asserts:

"For its part, the Commission feels obliged to re-affirm the considerations of fact and the statements of law set out in its statement of 27 November 2006. The Delimitation Decision of 13 April 2002 and the Statement of 27 November 2006 remain binding on the Parties… In stipulating that the boundary now automatically stands as demarcated by the boundary points listed in the Annex to the 27 November 2006 Statement, ***the Commission considers that it has fulfilled the mandate given to it***" (emphasis added)

The EEBC's demarcation by coordinates, which has been termed as virtual demarcation, delivered to the Parties through the UN Cartographic Office in November last year thus constitutes a culmination of the arbitration process and a final and comprehensive settlement of the border issue. In the event, the UN Security Council has no other authority or function other than enforcing the delimitation and demarcation determinations of the EEBC which are final and binding in accordance with the Algiers Agreement.

It is indeed against this backdrop that the Government of Eritrea has been repeatedly urging the Security Council to shoulder its legal and moral responsibilities to ensure the withdrawal of the army and institutions of the Ethiopian regime from the occupied territories.

While these are the facts of the matter, the United Nations Security Council, acting under pressure from the United States Government, adopted Resolution 1798 (2008) this Wednesday in contravention of fundamental premises of the United Nations Charter as well as key principles of international law.

As noted above, Security Council Resolution 1798 (2008) violates Article 2.3 and 2.4 of the UN Charter, and, disregards the lawful and authoritative decisions of the Eritrea Ethiopia Boundary Commission as well as earlier decisions of the Security Council itself. Indeed, the Security Council had instructed Ethiopia to dismantle its illegal settlements in Dembe Mengul, south of Badme, within 30 days in August 2002 (S/C/Resolution 1430 (2002). Ethiopia never complied with this order and the Security Council never took appropriate action to enforce Ethiopia's compliance.

Furthermore, the Resolution is not only replete with contradictory assertions, but also distorts fundamental tenets of the Algiers Peace Agreement through omissions and selective reading. Thus, while the TSZ, which lies entirely on Eritrean territory and covers almost a quarter of the country, was never intended to create a permanent security zone in the territory of one of the parties, the Resolution tries to give it a different meaning.

Security Council Resolution 1798 (2008) has no basis in either the Algiers Peace Agreement or the UN Charter. The Resolution dwells on tangential issues in an apparent desire to rationalise and justify the UN Security Council's failure to shoulder its legal obligations to date. In the event, it will not advance the cause of legality and international justice. Resolution 1798 (2008) will only contribute to a complication of the situation and is ultimately meant to serve the US agenda of "escalation and management of crises in the region".

The unwarranted action of the US Government will not serve the cause of peace and security in our region. Moreover, the Security Council's unfortunate decision to accede to US pressure will undermine the integrity of the UN Charter as well as set a dangerous precedent in international law.

Eritrea finds Resolution 1798 (2008) irrelevant for all the cogent considerations underlined above.